

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 06-95
)	
Plaintiff,)	
)	
- vs -)	
)	<u>ORDER</u>
Miguel Johnson)	
)	
Defendant.)	

The Court has for consideration the Government's Motion to Continue Trial filed on September 21, 2006 and the Defendant's response filed on September 22, 2006.

The Government has moved to continue the Defendant's trial for at least twenty-one days pursuant to Title 18 Section 3161(h)(8) of the United States Code and the Defendant has not objected, although reserving his right to challenge the filing of the Supplemental Indictment.

The Court finds that the Government has provided the following facts in support:

1. On May 24, 2006, the United States and the defendant jointly moved the Court to continue defendant Miguel Johnson's trial to a date subsequent to the sentencing of co-defendant Carly Grubbs. The request was made because Grubbs decided to plead guilty and her statement regarding the facts underlying the crimes charged significantly affected the government's position regarding the prosecution of Johnson. The government could only fully assess the veracity of Grubbs' version of events after Grubbs had both pleaded guilty and had been sentenced without retracting her admissions. At that point, the government would be in a position to determine an appropriate resolution to defendant Johnson's case.

2. On May 26, 2006, the Court granted the joint motion followed by a written order entered on June 13, 2006. The Court found that granting the requested continuance would serve the ends of justice and that the reasons for doing so outweighed the best interests of the public and the defendant in a speedy trial pursuant to 18 U.S.C § 3161. The Court subsequently set defendant Grubbs' sentencing hearing for August 28, 2006 and set defendant's Johnson's trial date for August 29, 2006.

3. On August 22, 2006 defendant Johnson was arrested after he tested positive for use of cocaine. Based on this and other events, the United States informed counsel for Johnson that it was contemplating the filing of additional charges against him and requested a response before determining how to proceed.

4. On August 28, 2006, due to a trial conflict, the Court rescheduled Grubbs' sentencing hearing for September 8, 2006. As a result, on August 28, 2006, the United States filed a motion requesting once again that the trial of Miguel Johnson be rescheduled to a date after Grubbs' sentencing. The Court granted the motion the same day and rescheduled Miguel Johnson's trial for September 26, 2006.

5. On September 20, 2006, the Grand Jury for the Northern District of Ohio, Eastern Division, returned a Supplemental Indictment against Miguel Johnson. The Supplemental Indictment added a new charge for Possession of cocaine to the charges already pending against Johnson in this case.

6. Miguel Johnson has not yet been arraigned on the new charge pending against him.

The Court finds that the trial date of September 26, 2006 is less than one week after

the Grand Jury returned the Supplemental Indictment against the defendant. Unless the trial date is continued the parties will have virtually no time to discuss a resolution or prepare for trial. A short continuance would not unnecessarily delay the disposition of this case because each side would be given sufficient opportunity to review the evidence and consider all factors before a final decision is made.

Therefore, the Court finds that the ends of justice served by granting the continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS SO ORDERED.

S/Christopher A. Boyko

September 25, 2006

HONORABLE CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE